

## BILL ANALYSIS

Senate Research Center

S.B. 32  
By: Montford  
Economic Development  
06-5-95  
Enrolled

### BACKGROUND

Current law allows parties in a lawsuit to choose where to bring suit. This has caused suits to be filed in counties which have no relation to the parties or subject matter of the lawsuit. A result is that suits are being filed in a county because a business may have an agent in the county, even though there is no connection between the location and subject matter of the case.

### PURPOSE

As enrolled, S.B. 32 amends venue rules for cases involving landlord-tenant; personal injury, death, or property damage; and insurance. Provides venue rules for multiple, intervening plaintiffs, and multiple claims. Also provides rules for suits involving joinder of defendants and claims after proper venue has been established. Creates the judicial panel on multicounty litigation, and authorizes the panel to change the venue of certain lawsuits.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 15A, Civil Practice and Remedies Code, as follows:

#### SUBCHAPTER A. New title: DEFINITIONS; GENERAL RULES

Sec. 15.001. DEFINITION. Defines "principal office" and "proper venue."

Sec. 15.002. VENUE: GENERAL RULE. (a) Requires all lawsuits to be brought in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred; in the county of the defendant's residence at the time the action accrued; in the county of the defendant's principal office, if the defendant is not a natural person; or if Subdivisions (1)-(3) do not apply, in the county in which the plaintiff resided at the time the cause of action accrued. Makes a nonsubstantive change.

(b) Authorizes a court, for the convenience of the parties and witnesses and in the interest of justice, to transfer an action from a county of proper venue to any other county of proper venue on motion of a defendant filed and served concurrently with or before the filing of the answer where the court finds maintenance of the action in the county of suit would work an injustice to the movant considering the movant's economic and personal hardship; the balance of interest of all the parties predominates in favor of the action being brought in the other county; and the transfer of the action would not work an injustice to any other party.

(c) Provides that a court's ruling or decision to grant or deny a transfer is not grounds for appeal or mandamus and is not reversible error.

Sec. 15.003. MULTIPLE PLAINTIFFS AND INTERVENING PLAINTIFFS. (a) Requires each plaintiff in a suit where more than one plaintiff is joined to independently of any other plaintiff, establish proper venue. Prohibits any person who is unable to establish proper venue from joining or maintaining venue for the suit as a plaintiff unless the person, independently of another plaintiff establishes that joinder or intervention in

the suit is proper under Texas Rules of Civil Procedure; maintaining venue in the county of suit does not unfairly prejudice another party to the suit; there is an essential need to have the person's claim tried in the county in which the suit is pending; and the county in which the suit is pending is a fair and convenient venue for the person seeking to join in or maintain venue for the suit and the persons against whom the suit is brought.

(b) Prohibits a person from intervening or joining in a pending suit as a plaintiff unless the person, independently of any other plaintiff establishes proper venue for the county in which the suit is pending; or satisfies the requirements of Subdivisions (1)-(4) of Subsection (a).

(c) Authorizes any person seeking intervention or joinder, who is unable to independently establish proper venue, or a party opposing intervention or joinder of such a person to contest the decision of the trial court allowing or denying intervention or joinder by taking an interlocutory appeal to the court of appeals district in which the trial court is located under the procedures established for interlocutory appeals. Requires the appeal to be perfected by the 20th day after the date the trial court signs the order denying or allowing intervention or joinder. Requires the court of appeals to determine whether the joinder or intervention is proper based on an independent determination from the record and not under either an abuse of discretion or substantial evidence standard; and render its decision by the 120th day after the date the appeal is perfected by the complaining party.

Sec. 15.004. MANDATORY VENUE PROVISION GOVERNS MULTIPLE CLAIMS. Requires a suit in which a plaintiff properly joins at least two claims or causes of action arising from the same transaction, occurrence or series of transactions or occurrences, and one of the claims or causes of action is governed by the mandatory venue provisions of Subchapter B to be brought in the county required by the mandatory venue provision.

Sec. 15.005. MULTIPLE DEFENDANTS. Provides that the court has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences in a suit in which the plaintiff has established proper venue under this chapter against a defendant.

Sec. 15.006. VENUE DETERMINED BY FACTS EXISTING AT THE TIME OF ACCRUAL. Requires a court to determine the venue of a suit based on the facts existing at the time the cause of action that is the basis of the suit accrued.

Sec. 15.007. CONFLICT WITH CERTAIN PROVISIONS. Provides that notwithstanding Sections 15.004, 15.005, and 15.031, to the extent that venue under this chapter for a suit brought by or against an executor, administrator, or a guardian as such, for personal injury, death or property damage conflicts with venue provisions under the Texas Probate Code, this chapter controls.

SECTION 2. Amends Chapter 15B, Civil Practice and Remedies Code, by amending Section 15.011 and by adding Sections 15.0115 and 15.018, as follows:

Sec. 15.011. LAND. Requires actions for recovery of damages to real property, among other actions, to be brought in the county in which all or part of the property is located.

Sec. 15.0115. LANDLORD-TENANT. (a) Requires a suit between a landlord and tenant under a lease to be brought in the county containing all or part of the real property, except as provided by another statute prescribing mandatory venue.

(b) Defines "lease."

Sec. 15.018. FEDERAL EMPLOYERS' LIABILITY ACT AND JONES ACT. (a) Provides that this section applies only to suits brought under the federal Employers Liability Act (45 U.S.C. Sec. 51 et seq.) or the Jones Act (46 U.S.C. Section 688).

(b) Requires all suits brought under the federal Employers Liability Act or the Jones Act to be brought in the county in which all or a substantial part of the cause of the action occurred; in the county where the defendant's principal office in this state is located; or in the county where the plaintiff resided at the time the cause of action accrued.

SECTION 3. Amends Sections 15.032 and 15.033, Civil Practice and Remedies Code, as follows:

Sec. 15.032. INSURANCE. Authorizes a suit against fire, marine, or inland insurance companies to begin in the county with the insured property. Authorizes a policy suit to be brought against an insurance company in the county in which the company's principle office in this state is located, or in which the policyholder or beneficiary resided at the time the cause of action accrued.

Sec. 15.033. BREACH OF WARRANTY OF MANUFACTURER. Authorizes a suit for breach of warranty by the manufacturer of consumer goods to be brought in any county in which all or a substantial part of the events or omissions giving rise to the claim occurred, rather than where cause of action accrued, in the county in which the manufacturer has its principal office, instead of where it may have an agency or representative in which the principal office of the company may be situated, or in the county in which the plaintiff, rather than the plaintiff or plaintiffs, resided at the time the cause of action accrued.

SECTION 4. Amends Section 15.062, Civil Practice and Remedies Code, as follows:

Sec. 15.062. COUNTERCLAIMS, CROSS CLAIMS, AND THIRD PARTY CLAIMS.

(a) Requires venue for the main action to establish venue of a counterclaim, crossclaim, or third-party claim properly joined under the Texas Rules of Civil Procedure or applicable statute.

(b) Requires venue, if an original defendant properly joins a third party defendant, to be proper for a claim arising out of the same transaction, occurrence, or series of transactions or occurrences by the plaintiff against the third-party defendant if the claim arises out of the subject matter of the plaintiff's claim against the original defendant.

SECTION 5. Amends Chapter 15D, Civil Practice and Remedies Code, by adding Sections 15.0641 and 15.0642, as follows:

Sec. 15.0641. VENUE RIGHTS OF MULTIPLE DEFENDANTS. Provides that in a suit in which two or more defendants are joined, any action or omission by one defendant in relation to venue, including a waiver of venue by one defendant, does not operate to impair or diminish the right of any other defendant to properly challenge venue.

Sec. 15.0642. MANDAMUS. Authorizes a party to apply for a writ of mandamus with an appellate court to enforce mandatory venue provisions of this chapter. Requires an application for the writ of mandamus to be filed by the later of the 90th day before the date the trial starts; or the 10th day after the date the party receives notice of the trial setting.

SECTION 6. Amends Chapter 15D, Civil Practice and Remedies Code, by adding Section 15.066, as follows:

Sec. 15.066. CONFLICT WITH RULES OF CIVIL PROCEDURE. Provides that this chapter controls when conflicting with the Texas Rules of Civil Procedure, subject to Section 22.004, Government Code.

SECTION 7. Amends Section 17.56, Business and Commerce Code, as follows:

Sec. 17.56. VENUE. Requires an action which alleges a claim to relief under Section 17.50 of this subchapter to be brought as provided by Chapter 15, Civil Practice and Remedies Code, except as provided by Article 5.06-1(8), Insurance Code. Deletes language authorizing venue locations for a claim to relief under Section 17.50.

SECTION 8. Amends Article 5.06-1, Insurance Code, by adding Subsection (8), as follows:

(8) Authorizes an action against an insurer in relation to coverage provided under this article, including an action to enforce that coverage, to be brought in the county in which the policyholder or beneficiary instituting the suit resided at the time of the accident or in the county in which the accident involving the uninsured motor vehicle occurred.

SECTION 9. Amends Section 92.007, Property Code, to provide that a venue for an action under this chapter is governed under Section 15.0115, Civil Practice and Remedies Code.

SECTION 10. Repealer: Sections 15.036, 15.037, 15.040, and 15.061, Civil Practice and Remedies Code (Corporations and Associations-Foreign Corporations-Nonresidence; Residence Unknown-Joinder of Defendants of Claims).

SECTION 11. (a) Makes application of this Act prospective beginning September 1, 1995, except as provided by Subsection (b).

(b) Makes application of this Act prospective beginning January 1, 1996, relating to the venue of a suit.

SECTION 12. Emergency clause.  
Effective date: upon passage.